

SENATE BILL REPORT

HB 1765

As Passed Senate, March 4, 2022

Title: An act relating to ensuring the ongoing sustainability and vitality of the Washington health benefit exchange by eliminating the expiration date of its business and occupation tax exemption.

Brief Description: Ensuring the ongoing sustainability and vitality of the Washington health benefit exchange by eliminating the expiration date of its business and occupation tax exemption.

Sponsors: Representatives Chopp, Cody, Macri, Ryu, Simmons, Wylie, Tharinger, Valdez, Pollet, Fitzgibbon, Chapman, Ortiz-Self, Stonier, Goodman, Riccelli, Davis, Taylor and Kloba; by request of Office of Financial Management.

Brief History: Passed House: 2/2/22, 95-1.

Committee Activity: Ways & Means: 2/22/22 [DP].

Floor Activity: Passed Senate: 3/4/22, 48-0.

Brief Summary of Bill

- Removes the expiration date of July 1, 2023

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Capital; Robinson, Vice Chair, Operating & Revenue; Wilson, L., Ranking Member; Brown, Assistant Ranking Member, Operating; Schoesler, Assistant Ranking Member, Capital; Honeyford, Ranking Minority Member, Capital; Billig, Braun, Carlyle, Conway, Dhingra, Gildon, Hasegawa, Hunt, Keiser, Mullet, Muzzall, Pedersen, Rivers, Van De Wege, Wagoner, Warnick and Wellman.

Staff: Sandy Stith (786-7710)

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Background: The federal Patient Protection and Affordable Care Act (PPACA), passed in March 2010, required states to establish health insurance exchanges (Exchange) by January 1, 2014, to facilitate the purchase of individual insurance and small employer group insurance, and provide access to premium tax credits and cost-sharing reductions for individuals with family incomes between 133 percent and 400 percent of the federal poverty level (FPL). Individuals with income below 133 percent have access to expanded Medicaid programs. Federal subsidies for individuals are only available through the Exchange, or through a federal basic health option in states that chose to have this option available for individuals with family income between 133 percent and 200 percent of the FPL.

The Washington State Health Benefit Exchange is a public-private partnership intended to:

- increase access to quality affordable health care coverage, reduce the number of uninsured persons in Washington State, and increase the availability of health care coverage through the private health insurance market to qualified individuals and small employers;
- provide consumer choice and portability of health insurance, regardless of employment status;
- create an organized, transparent, and accountable health insurance marketplace for Washingtonians to purchase affordable, quality health care coverage, to claim available federal refundable premium tax credits and cost-sharing subsidies, and to meet the personal responsibility requirements for minimum essential coverage as provided under the federal affordable care act;
- promote consumer literacy and empower consumers to compare plans and make informed decisions about their health care and coverage;
- effectively and efficiently administer health care subsidies and determination of eligibility for participation in publicly subsidized health care programs, including the exchange;
- create a health insurance market that competes on the basis of price, quality, service, and other innovative efforts;
- operate in a manner compatible with efforts to improve quality, contain costs, and promote innovation;
- recognize the need for a private health insurance market to exist outside of the Exchange; and
- recognize that the regulation of the health insurance market, both inside and outside the Exchange, should continue to be performed by the insurance commissioner.

The Exchange is required to be self-sustaining. This means it is capable of operating with revenue attributable to the operations of the Exchange. Self-sustaining sources of revenue include, but are not limited to federal grants, federal premium tax subsidies and credits, charges to health carriers, premiums paid by enrollees, and premium taxes.

Almost all businesses located or doing business in Washington are subject to the state business and occupation (B&O) tax. The B&O tax is imposed on the gross receipts of business activities conducted within the state. Revenues are deposited in the state general

fund. The classification and rate of the B&O tax is based on the type of business activity. There are many exemptions for specific types of business activities, and certain deductions and credits are permitted under the B&O tax statutes. The B&O tax does not apply to any health maintenance organization, health care service contractor, or certified health plan in respect to premiums taxable under the 2 percent premium tax.

In 2013, the Exchange was exempted from B&O tax with a sunset date of July 1, 2023.

The Joint Legislative Audit and Review Committee reviewed this tax preference in July 2021, and recommended the preference be extended or the preference be made permanent.

Summary of Bill: This bill removes the sunset date of July 1, 2023.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: No public hearing was held.

Persons Testifying: No one.

Persons Signed In To Testify But Not Testifying: No one.